

405 KAR 1:040. Operations affecting two (2) acres or less.

RELATES TO: KRS 350.400

STATUTORY AUTHORITY: KRS 350.028, 350.060(10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.028 requires the Environmental and Public Protection Cabinet to adopt rules and administrative regulations for the strip mining of coal. This administrative regulation sets forth requirements for strip mining operations which affect two (2) acres or less.

Section 1. Definitions. The definitions of terms as stated in 405 KAR 1:010 shall apply with respect to this administrative regulation except as otherwise specifically stated in this administrative regulation or except as otherwise clearly indicated by the context of use of such terms in this administrative regulation.

Section 2. General Provisions. (1) Applicability.

(a) This administrative regulation shall apply to operations for the strip mining of coal which would affect two (2) acres or less, including areas to be mined, spoil disposal areas, access and haul roads, and other surface operations and facilities directly associated with the mining operation which are located contiguous to or in the immediate vicinity of the mining operation.

(b) The provisions of this administrative regulation shall apply only to strip mining operations for which permits are issued on or after May 3, 1978.

(2) General obligations. The obligations imposed upon all operators by 405 KAR 1:020, Section 5(1)(a), (b), (c), (d), (f), and (g) and the reporting requirements of 405 KAR 1:020, Section 6(1) and (3), shall apply with respect to this administrative regulation.

Section 3. Permit Requirements. The provisions of 405 KAR 1:050 shall apply with respect to this administrative regulation, except:

- (1) 405 KAR 1:050, Section 4(5), with regard to transportation plan;
- (2) 405 KAR 1:050, Section 4(6), with regard to prime farmland;
- (3) 405 KAR 1:050, Section 4(7), with regard to postmining land use;
- (4) 405 KAR 1:050, Section 4(9), with regard to topsoil handling;
- (5) 405 KAR 1:050, Section 4(13)(b), with regard to water quality standards and surface water monitoring;
- (6) 405 KAR 1:050, Section 4(14), with regard to groundwater.

Section 4. Environmental Protection Performance Standards. The environmental protection performance standards set forth in this chapter in administrative regulations 405 KAR 1:070 to 405 KAR 1:250, inclusive, shall apply with respect to this administrative regulation except:

(1) Postmining land use. 405 KAR 1:070 shall not apply with respect to this administrative regulation. No provision of this chapter which imposes requirements related to postmining land use shall apply with respect to this administrative regulation.

(2) Water quality standards and surface water monitoring:

(a) The provisions of 405 KAR 1:170 shall not apply with respect to this administrative regulation.

(b) The cabinet may require that the permittee monitor the quality of water discharges from the permit area in a manner prescribed by the cabinet and submit to this cabinet such monitoring reports as the cabinet may require. The parameters to be monitored may include total iron, total manganese, total suspended solids, and pH.

(3) Groundwater. The provisions of 405 KAR 1:180 shall not apply with respect to this administrative regulation.

(4) Sediment control measures. The provisions of 405 KAR 1:200, Section 1(2), requiring sedimentation ponds shall not apply with respect to this administrative regulation, except that the cabinet may require the construction of sedimentation ponds when necessary to prevent excessive contributions of suspended solids to surface run-off from the permit area in excess of seventy (70) mg/l. Criteria required for design and construction of sedimentation ponds pursuant to this paragraph shall not be more stringent than criteria provided in 405 KAR 1:200.

(5) Prime farmland. The provisions of 405 KAR 1:250 shall not apply with respect to this administrative regulation.

(6) Topsoil handling. The provisions of 405 KAR 1:100 shall not apply with respect to this administrative regulation.

Section 5. Variances. The cabinet may at its discretion waive any provision of this chapter with respect to this administrative regulation, except the provisions of 405 KAR 1:020, Section 5(1)(a), (b), (c), (d), (f), and (g); 405 KAR 1:050, Section 1; and 405 KAR 1:060, upon a written finding by the cabinet that the public and the environment will in the absence of such provisions be provided adequate protection consistent with the purpose of this chapter.

Section 6. Inspection and Enforcement Procedures. The provisions of 405 KAR 1:060 shall apply with respect to this administrative regulation. (4 Ky.R. 375; eff. 5-3-78; Am. 473; 5 Ky.R. 189; eff. 8-23-78; TAm eff. 8-9-2007.)